

# The City of San Diego California Environmental Quality Act (CEQA)

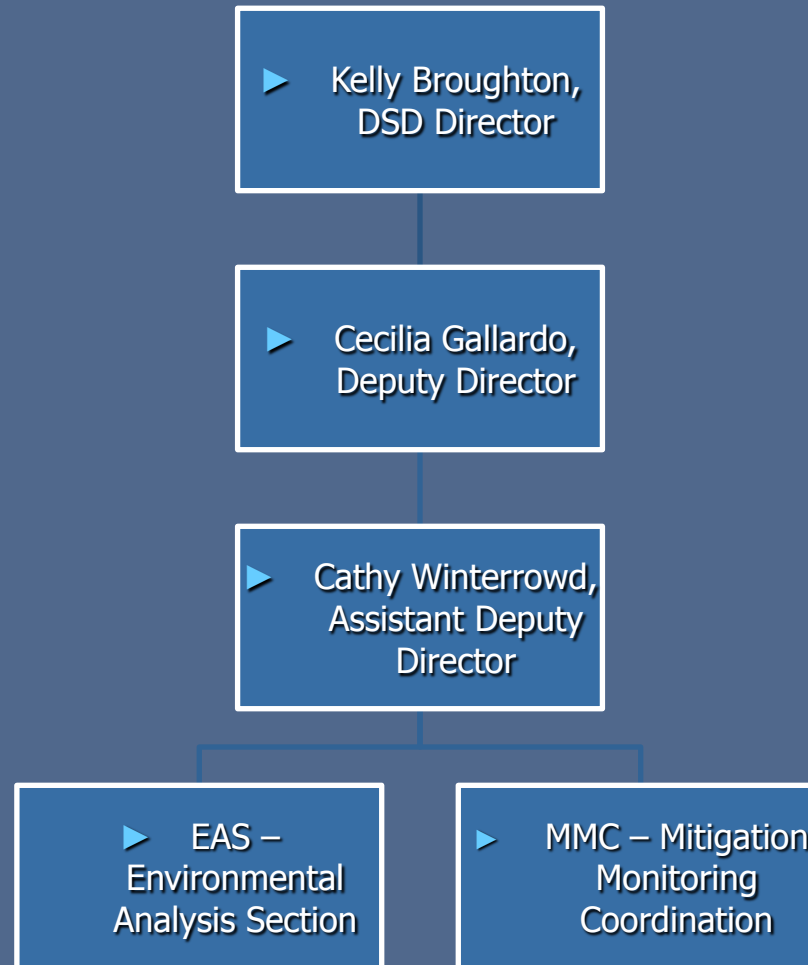


Development Services  
Department

**ADVANCED CEQA  
WORKSHOP**

September 27, 2012

# Development Services Department Organizational Chart



DSD is charged with implementing CEQA on behalf of the City of San Diego

# What is CEQA ?

- “California Environmental Quality Act”, a State law passed in 1970
- It is a **process** triggered by a discretionary action to disclose to the public and decision-makers the environmental impacts of development projects.
- Requires identification and adoption of feasible mitigation measures and/or alternatives for the significant environmental effects of project



# EAS Responsibilities

Produce a legally defensible document and, pursuant to Section 128.0103(b) of the Land Development Code, an unbiased impact analysis.

Unlike other members of the reviewing team, EAS does not make any recommendation to approve or deny a project.

Maintain independence and objectivity while conducting the environmental review. This mandate is emphasized in City Attorney's Opinion Number 95-2.

# Pre-Public Review CEQA Process

- Preliminary Review for Completeness of Application
  - Determine if action is discretionary
  - Determine whether action is a project
- Review for Exemption
  - General Rule
  - Statutory Exemption
  - Categorical Exemption
- Commence Initial Study and complete within 30 days.
  - Based on results, conclude previously addressed or prepare ND, MND, Addendum, EIR, or other document.

# EAS Coordinates With:

- Within DSD (Regulator)

- fire prevention officer
- transportation engineers
- hydrology/water quality engineers
- geologists
- biologists
- historical resources specialists
- noise experts
- permit planners
- landscape planners

- Planning (Policy Division)

- long range planners
- Multiple Species Conservation Program staff

- Other Regulators

- U.S. Fish and Wildlife Service
- Army Corps of Engineers
- California Department of Fish and Game
- Regional Water Quality Control Board
- County Environmental Health
- County Air Pollution Control District



# Research Tools:

CEQA Statutes and Guidelines

Biology Guidelines

Historical Resources Guidelines

Community Plans

Land Development Code

Technical Reports

Significance Thresholds



# Significance Thresholds

- Adoption not required by CEQA, may not matter in court (fair argument standard)
- Thresholds provide staff with guidance on determining the significance of an impact
- If an impact is determined to be significant, mitigation or an Environmental Impact Report is required.
- Lower thresholds result in more significant impacts and preparation of more Environmental Impact Reports when impacts cannot be mitigated.

# Administrative History

- Thresholds have been used by City staff since the 1980's.
- Thresholds were published in a single booklet in the 1990s, periodically updated, and made publicly available.
- In 2000, the thresholds were approved as an appendix to the Land Development Manual

# Exemptions

- Statutory Exemptions
  - Used to exempt ministerial (e.g., building permits and Substantial Conformance Review) and certain types of discretionary projects (e.g., emergency projects, pipelines less than a mile) regardless of impacts.
- Categorical Exemptions
  - Used to exempt certain types of discretionary projects where there is no “reasonable possibility” for a significant impact.

# Result of the Analysis: the draft Environmental Document

- Negative Declaration (ND)
  - No significant effect.
- Mitigated Negative Declaration (MND)
  - Significant effects are mitigated.
- Environmental Impact Report (EIR) – “If there is substantial evidence, in light of the whole record before a lead agency that a project may have a significant effect”
  - Addendum
  - Supplemental EIR
  - Subsequent EIR

# EIRs and MNDs

## Differences:

### EIRs

- project may be approved with significant unmitigated impacts
- project alternatives are analyzed
- Cumulative impacts are separately analyzed
- Findings and Statement of Overriding Considerations must be adopted

### MNDs

- all significant impacts mitigated through conditions of project approval
- no project alternatives are analyzed
- Cumulative impact analysis required but no separate, explicit discussion required
- Findings and Statement of Overriding Considerations not required

## Similarities:

Same technical reports and level of analysis

Same mitigation measures: adoption, nexus, and rough proportionality

# Public Review



- 20-30 days for ND or MND
- 30-45 days for EIR
- Staff responds to public comments. Environmental document revised if necessary.
- Final document distributed 14 days before first public hearing (LDC Section 128.0310(a)).



# Recirculation....

Conditions under which we would recirculate an environmental document pursuant to Sections 15073.5 and 15088.5 of the CEQA Guidelines:

- A new significant impact requiring new mitigation is identified.
- A previously identified impact is found to be significantly increased, and mitigation is needed to reduce the impact to a level below significance.
- Change in circumstances occur which would result in a new or significantly increased impact.



# 15162 - Subsequent Documents

“When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines...”

- Substantial changes are proposed in the project which result in new or increased significant effects or
- Substantial changes occur with respect to the circumstances under which the project is undertaken and result in new or increased significant effects or
- New information shows:
  - New significant effects
  - More severe significant effects
  - New mitigation measures are feasible

# Documents – Subsequent, Supplemental, Addenda

- If the conditions in Section 15162 are met, a subsequent EIR/ M/ND, a Supplement to an EIR (Section 15163) or an Addendum to an EIR/M/ND pursuant to Section 15164 can be prepared.
- For Addenda:
  - Minor or Technical Changes to project
  - There can be no new significant impacts or substantial increase in previously disclosed impacts.
  - There is no CEQA requirement for public review of an addendum.
  - The Land Development code requires a 14-day public review if the EIR was certified more than 3 years previously.

# Project Decision



- Certify/adopt environmental document or note Exemption
- Approve project
- Notice of Determination (NOD) Filed; sets limits on legal challenges

# Environmental Appeals Regulations

# Environmental Appeals Regulations Why?

CEQA amended to require the City to facilitate appeals to Council of:

- Exemptions
- Negative Declarations
- Mitigated Negative Declarations
- Environmental Impact Reports

# Environmental Appeals Regulations

## Scope

- Does not allow appeals of:
  - CEQA actions not listed in the legislation:
    - Including use of previously-certified documents, addenda
  - Decisions already subject to Council approval or appeal to Council:
    - Including Process 4 and 5 decisions and decisions outside of the Land Development Code permit process
  - Statutory exemptions:
    - All classes, including ministerial projects

# Environmental Appeals Regulations

## Appeal Hearings

- Public Notice Required
- By a majority vote, the Council may:
  - Deny the appeal and uphold the determination
  - Grant the appeal and make superseding environmental determination or CEQA findings
  - Grant the appeal, set aside the determination, and remand for re-consideration by City Council



# Questions?

## **CEQA Statutes, Guidelines and Cases**

<http://ceres.ca.gov/ceqa/>

## **City CEQA Implementation Ordinances**

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter12/Ch12Art08Division01>

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter12/Ch12Art08Division02>

## **City Significance Thresholds**

<http://www.sandiego.gov/development-services/news/newslist.shtml>